IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.866 OF 2005

Sou.Bhamabai Popat Karale & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

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Smt.Revati Mohite-Dere for Applicants.

Mr.D.R.More, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 14, 2005.

P.C.

1. Heard Counsel for the parties.

2. Except the dying declaration, no other evidence has been collected by the prosecution to indicate the complicity of the Applicants. The incident in question occurred on 4th November 2004 and in the first statement of the deceased as recorded, no mention was made about any altercation having taken place between her and the Applicants as referred to therein. For the first time, on 6th

November 2004, in the second statement of the deceased as recorded, she has mentioned that there was quarrel between the Applicants on the one hand and the deceased on the other, on account of false accusation against her. In the same statement, however, it is accepted that deceased and her husband were staying separately. Indeed, dying declaration is a strong circumstance, but there is no corroborating evidence collected during the investigation. There is variance in the statement of the deceased recorded on different occasions. The dying declaration which implicates the Applicants, is recorded after two days and as mentioned earlier in the first statement of the deceased, which was recorded on the same day, no reference to any quarrel between the Applicants and the deceased is adverted to.

3. Both the Applicants being females and for the nature of evidence and as the investigation is complete and charge-sheet has been filed, Applicants are directed to be released on bail on the following conditions:

(a) The Applicants are granted bail in connection with C.R.No.101 of 2004 registered with Manchar Police Station, Pune, on executing personal bond in the sum of Rs.15,000/- each (Rupees Fifteen Thousand) with one or two local sureties in the like amount.

(b) The Applicants shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(c) The Applicants shall extend full co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicants are responsible for the delay of the trial, that fact be recorded in the Roznama, which will be a ground for cancellation of bail.

4. Application disposed of on the above terms.

A.M.KHANWILKAR, J.